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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedom

Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

Note by the Secretary-General

I have the honour to submit to the General Assembly, pursuant to General Assembly resolution 57/229 of 18 December 2002, the report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

* A/58/50/Rev.1 and Corr.1.

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Draft report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities

I. Introduction

1. In its resolution 56/168 of 19 December 2001, the General Assembly decided to establish an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.

2. The Assembly in its resolution 57/229 of 18 December 2002 also decided that, prior to its fifty-eighth session, the Ad Hoc Committee should hold at least one session of a duration of 10 working days in 2003.

II. Organizational matters

A. Opening and duration of the second session

3. The Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities held its second session at United Nations Headquarters from 16 to 27 June 2003. In the course of its session, the Ad Hoc Committee held 14 plenary meetings, three meetings for panel discussions and a number of informal meetings.

4. The Division for Social Policy and Development of the Department of Economic and Social Affairs acted as the substantive secretariat, while the Disarmament and Decolonization Affairs Branch of the Department of General Assembly Affairs and Conference Management served as secretariat of the Ad Hoc Committee.

5. The second session of the Ad Hoc Committee was opened by the Chairman of the Committee, Mr. Luis Gallegos Chiriboga, Ambassador and the Permanent Representative of Ecuador to the United Nations. Ambassador June Yvonne Clarc of Barbados, the special representative of the President of the General Assembly, made a statement.

6. The Secretary-General of the United Nations also addressed the Ad Hoc Committee at its 8th meeting on 19 June.

B. Officers

7. At its first meeting, on 16 June, the Ad Hoc Committee elected Ms. Ivana Grollova of the Czech Republic as Vice-Chairperson of the Committee by acclamation. The following officers continued to serve on the Bureau of the Committee:

Chairman:
Luis Gallegos (Ecuador)

Vice-Chairmen:
Ivana Grollova (Czech Republic)
Enrique Manalo (Philippines)
Jeanette Ndhlovu (South Africa)
Carina Mårtensson (Sweden)

C. Agenda

8. At the same meeting, on 16 June 2003, the Ad Hoc Committee adopted its provisional agenda, as contained in document A/AC.265/2003/L.1, as follows:

1. Opening of the session.
2. Election of a new member of the Bureau.
3. Adoption of the agenda.
4. Organization of work.
5. Review of progress in the elaboration of a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities:
   (a) Views of Governments and relevant organizations and bodies of the United Nations system on the proposed convention;
   (b) Global policy review of issues and trends related to the advancement of persons with disabilities;
   (c) Outcome of technical meetings and seminars;
   (d) Elements to be considered in the proposals for a convention submitted by the regional commissions of the United Nations, intergovernmental organizations and non-governmental organizations.
6. Panel discussions on priority themes.
7. Debate on the contributions to proposals for the convention, including:
   (a) Nature and structure;
   (b) Elements to be considered;
   (c) Follow-up and monitoring;
   (d) Complementarity between a new instrument and existing instruments.
8. Next steps in the consideration of a convention.
9. Adoption of the report of the Committee on its second session.

D. Documentation

9. The Ad Hoc Committee had before it the following documents:

(a) Provisional agenda and annotations (A/AC.265/2003/L.1);

(b) Proposed organization of work (A/AC.265/2003/L.2);

(c) European Union draft resolution (A/AC.265/2003/L.3);

(d) Draft report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/2003/L.4);

(e) Report of the Secretary-General on issues and emerging trends related to the advancement of persons with disabilities (A/AC.265/2003/1);

(f) Report of the Secretary-General on an overview of issues and trends related to the advancement of persons with disabilities (A/AC.265/2003/2);

(g) Report of the Secretary-General on progress in the equalization of opportunities by, for and with persons with disabilities (A/AC.265/2002/3);

(h) Note by the Secretary-General transmitting views submitted by Governments, intergovernmental organizations and United Nations bodies concerning a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities (A/AC.265/2003/4, Corr.1, and Add.1);

(i) Outcomes of an interregional and regional demonstration workshop on accessible information and communications technologies (ICT) and persons with disabilities, held in Manila from 3 to 7 March 2003 (A/AC.265/CRP.7);

(j) Letter dated 23 May 2003 from the Permanent Representative of Ecuador to the United Nations addressed to the Secretary of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/CRP.8);

(k) Letter dated 26 May 2003 from the Executive Director of the Danish Institute for Human Rights addressed to the Secretary of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/CRP.9);

(l) Bangkok recommendations on the elaboration of a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities — outcome of an expert group meeting and seminar held in Bangkok at the headquarters of the Economic and Social Commission for Asia and the Pacific from 2 to 4 June 2003 (A/AC.265/CRP.10);

(m) Note verbale dated 12 June 2003 from the Permanent Mission of South Africa to the United Nations addressed to the Secretary of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/CRP.11);

(n) Beirut Declaration and Recommendations on the elaboration of a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities — Outcome of the Arab Regional Meeting on Norms and Standards Related to Development and the Rights of Persons with Disabilities held in Beirut from 27 to 29 May 2003 (A/AC.265/CRP.12);

(o) Compilation of proposals for a comprehensive and integral convention to promote and protect the rights and dignity of persons with disabilities (A/AC.265/CRP.13, Add.1 and 2);

(p) Chairman's summary of the panel discussions (A/AC.265/CRP.14);

(q) Letter dated 18 June 2003 from the Deputy Permanent Representative of Venezuela to the United Nations addressed to the Secretary of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/2003/WP.1);

(r) List of participants (A/AC.265/2003/INF/1).

III. Proceedings of the Ad Hoc Committee

10. The Ad Hoc Committee considered item 5 at its 4th and 5th meetings on 17 and 18 June. Statements were made by the representatives of the following delegations: Australia, Canada, Greece (on behalf of the European Union, and the acceding countries of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia, the associated countries of Bulgaria, Romania and Turkey, and the EFTA country member of the European Economic Area, Iceland, which aligned themselves with the statement), Mexico, New Zealand, Senegal, Thailand, Uganda, Venezuela, China, Costa Rica, Cuba, Japan, Jordan (on behalf of the Group of Arab States), Lebanon, Morocco (on behalf of the Group of African States), Norway, the Philippines, Qatar, the Syrian Arab Republic, South Africa and the United States, as well as by the observer for Palestine. The representatives of the International Labour Organization (ILO), the Economic and Social Commission for Asia and Pacific (ESCAP), the National Human Rights Commission of India, the Asia Pacific Forum and the World Bank also made statements.

11. The Ad Hoc Committee held a general debate under item 7 at its 6th and 7th meetings on 18 and 19 June. Statements were made by the representatives of the following delegations: Chile, Benin, Canada, Costa Rica, the Dominican Republic, El Salvador, Greece (on behalf of the European Union, and the acceding countries of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia, the associated countries of Bulgaria, Romania and Turkey and the EFTA country member of the European Economic Area, Iceland, which aligned themselves with the statement), Japan, Mexico, Namibia, New Zealand, Venezuela, Australia, Brazil, Fiji, India, Indonesia, Israel, Jordan, Kuwait, Liechtenstein, Nigeria, Peru, the Philippines, Qatar, the Republic of Korea and the Russian Federation, as well as by the observer of the Holy See. The representatives of the International Labour Organization (ILO), the Office of High Commissioner for Human Rights (HCHR), the South African Human Rights Commission (on behalf of National Human Rights Institutions (NHRI)), Disabled Peoples

International, International Disability Caucus, World Federation of the Deaf and World Network of Users and Survivors of Psychiatry, European Disability Forum, the New Zealand Human Rights Commission, People with Disability Australia, Inc. and the Association of Community Legal Centres. The representative of the Department for Disarmament Affairs also made a statement.

12. The Ad Hoc Committee considered the sub-items of 7 as well as item 8 at its 8th to 13th meetings held from 19 to 24 June. The Committee also had a number of informal meetings from 24 to 27 June.

13. At the 2nd meeting on 16 June, the 3rd meeting on 17 June and the 12th meeting, on 23 June 2003, upon the request of the Ad Hoc Committee, the Division for Social Policy and Development, Department of Economic and Social Affairs, organized three panels for delegates and representatives of NGOs. The panels were chaired by Ambassador Luis Gallegos Chiriboga, the Chairman of the Ad Hoc Committee. At the first panel the following experts presented briefings on the typology of international conventions and options for the convention on the rights of persons with disabilities: Mr. Andrew Byrnes (Australia), Mr. Muna Ndulo (Zambia), Ms. Velina Todorova (Bulgaria) and Ms. Deepika Udagama (Sri Lanka). The second panel was devoted to the discussion of the principles of non-discrimination and equality from a disability perspective: critical issues concerning special measures and disability. The following experts made presentations: Ambassador Leadro Despouy (Argentina), Dr. Rangita de Silva de Alwis (Sri Lanka), Ms. Charlotte McClain (South Africa) and Ms. Cynthia Waddell (United States of America). At the third panel on new and emerging approaches to definitions of disability: conceptual framework, varying contexts of definitions, and implications for promotion of the rights of persons with disabilities, the following experts made presentations: Dr. Scott Brown (United States of America), Dr. Catherine Barral (France) and Dr. Kofi Marfo (Ghana). [The Chairman's summaries of these panel discussions are attached to this report. See Annex II.]

IV. Decision

14. At its 14th meeting, on 27 June 2003, the Chairman presented a draft decision. In this connection, the Secretary of the Committee made the following statement:

> "With respect to paragraph 4 of the draft decision for the Working Group to meet intersessionally at the United Nations Headquarters in New York, it is estimated that it would entail the provision of twenty meetings (two meetings per day) with full interpretation services. There will be 250 pages of pre-session, 100 pages of in-session and 100 pages of post-session documentation in six languages.
>
> "The conference-servicing costs of the one session of ten working days are estimated at $562,300, at full cost.
>
> "It is to be noted that two weeks in 2004, the period 5 to 16 January 2004, have been identified when meeting services, conference room and interpretation, can be provided for the holding of the meetings of the Working Group. Documentation services, however, especially pre-session documentation, which is anticipated at a high volume would have to be

prepared during the regular sessions of the General Assembly, which from experience already has very high workloads.

"In this regard, the extent to which the Organization's permanent capacity would need to be supplemented by temporary assistance resources can be determined only in light of the calendar of conferences and meetings for 2004. Provision is made, however, under section 2, General Assembly and Conference Management, of the proposed programme budget for the biennium 2004-2005, not only for meetings programmed at the time of budget preparation but also for meetings authorized subsequently, provided that the number and distribution of meetings are consistent with the pattern of meetings of past years. Consequently, should the General Assembly adopt a draft resolution, no additional provisions would be required."

15. At the same meeting, the Ad Hoc Committee adopted the following decision:

"The Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities decides:

"1. To establish a Working Group with the aim of preparing and presenting a draft text which would be the basis for negotiation by Member States and Observers at the Ad Hoc Committee of the draft convention, taking into account all contributions submitted to the Ad Hoc Committee in advance of the meetings of the Working Group by States, observers, regional meetings, relevant United Nations bodies, entities and agencies, regional commissions and intergovernmental organizations, as well as civil society including non-governmental organizations (NGOs), national disability and human rights institutions and independent experts. Where there are alternative approaches, the Working Group shall present textual options that reflect those approaches.

"2. The Working Group shall comprise twenty-seven governmental representatives designated by the regional groups (Asia 7, Africa 7, Latin America and Caribbean 5, Western Europe and Other 5, Eastern Europe 3). The Working Group shall also include twelve representatives of non-governmental organizations (NGOs), especially organizations of persons with disabilities, accredited to the Ad Hoc Committee, to be selected by those organizations, taking into account the diversity of disabilities and of NGOs, ensuring adequate representation of NGOs from developing countries and from all regions. It will also include a representative from national human rights institutions accredited to the International Coordinating Committee. For the purposes of the Working Group, the modalities of participation for NGOs as contained in resolutions 56/510 and 57/229 shall apply both to NGOs and to national human rights institutions. Selections should be communicated to the Bureau of the Ad Hoc Committee no later than forty-five days after the adoption of this decision.

"3. The Voluntary Fund established by General Assembly resolution 57/229 may be used to support the participation of non-governmental organizations and experts from developing countries, in particular from the least developed countries.

"4. The Working Group shall meet intersessionally at the United Nations Headquarters in New York for one session of ten working days early in 2004,

and will present the outcome of its work on a draft text to the Ad Hoc Committee at its third session.

"5. The outcome of the Group's work on a draft text as presented to the Ad Hoc Committee shall be translated into all United Nations languages, as well as published to the fullest extent possible in formats accessible to persons with disabilities, and circulated as a United Nations document no later than three months before the third session of the Ad Hoc Committee.

"6. The Chairman of the Ad Hoc Committee shall appoint, in consultation with the members of the Working Group, a coordinator of the Group from among the Governmental representatives in order to facilitate its proceedings.

"7. The Secretary-General should provide the Working Group with all relevant documentation, including the report of the second session of the Ad Hoc Committee, as soon as possible and to the fullest extent possible in formats accessible to persons with disabilities.

"8. The mandate of the Working Group shall be terminated upon the presentation of the outcome of its work on a draft text to the Ad Hoc Committee.

"9. The above-mentioned modalities shall in no way create a precedent for other Ad Hoc Committees of the General Assembly."

16. Following the adoption of the decision, the Chairman stated, "All Member States may attend the deliberations of the Working Group."

V. Recommendations

17. The Ad Hoc Committee recommends that the Committee hold its third session in New York, in May/June 2004 and include the dates and the venue in the relevant resolution to be adopted at the fifty-eighth session of the General Assembly.

18. The Ad Hoc Committee invites members of its Bureau to hold an intersessional meeting regarding the preparation and organization of the third session of the Committee, including preparing a provisional agenda, to be issued at least four weeks prior to the third session.

19. With regard to accessibility and in accordance with General Assembly decision 56/474 and resolution 57/229, the Committee invites the General Assembly, at its fifty-eighth session, to examine in greater detail the provision of reasonable accommodation for persons with disabilities in order to facilitate accessibility to United Nations premises, technology and documents.

20. The Ad Hoc Committee recommends to the General Assembly that a convention be elaborated and that negotiations thereon be conducted in the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

VI. Adoption of the report of the Ad Hoc Committee

21. At the 14th meeting, on 27 June 2003, the Committee adopted its draft report to the General Assembly at its fifty-eighth session (A/AC.265/2003/L.4), as orally amended.

Annex I

In accordance with General Assembly resolution 56/510, all non-governmental organizations enjoying consultative status with the Economic and Social Council shall receive accreditation to the Ad Hoc Committee. Other non-governmental organizations may apply for accreditation to the Ad Hoc Committee. The following organizations not in consultative status with the Economic and Social Council were granted accreditation by the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities at its second session:

1. Disability Australia Ltd.
2. Jesh Foundation
3. Northeastern University, Center for the Study of Sport in Society
4. Asociación de Impedidos Fisicos Motores
5. Fondation Telethon
6. HalfthePlanet Foundation
7. Charitable society for disabled people "Stimul"
8. People Who
9. World Network of Users and Survivors of Psychiatry
10. The Hong Kong Council of Social Services
11. Polio Plus — Movement Against Disability
12. Canadian Association for Community Living
13. Centre for Disability in Development
14. Centre for Independent Living of People with Disability of Serbia
15. National Forum of Organizations Working with the Disabled (NFOWD)
16. ABILITY Awareness
17. Central Council of Disabled Persons
18. Confederación Mexicana de Organizaciones en Favor de la Persona con Discapacidad Intelectual, A.C. (CONFE)
19. Council for Canadians with Disabilities (CDD)
20. European League of Stuttering Associations (ELSA)
21. Fondo Teleton de Apoyo a Instituciones
22. Public Interest Law Center of Philadelphia
23. World Federation of the Deafblind (WFDB)
24. People with Disability Australia Incorporated (PWDA)

Annex II

Chairman's Summary of Panel Discussions

Panel I: Typology of international conventions and options for a convention on the rights of persons with disabilities

Panel I had four presenters: Mr. Andrew Byrnes (Australia), Ms. Deepika Udagama (Sri Lanka), Ms. Velina Todorova (Bulgaria) and Mr. Muna Ndulo (Zambia). Mr. Byrnes moderated the panel discussion.

The panel discussed issues concerning a convention on the rights of persons with disabilities in terms of its nature, structure, elements and monitoring system. It also examined how the existing human rights conventions might provide guidance and options for elements in elaborating a new convention, especially in relation to the newly emerging concept, which would incorporate the norms with an equal emphasis on human rights and social development.

The panel explored three models of an international convention: (1) holistic rights model such as the Convention on the Rights of the Child (CRC), which would provide a broader scope of the convention on the rights of persons with disabilities, similar in its holistic and comprehensive nature to that Convention; (2) non-discrimination model based on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which would not require the development of new rights to incorporate the specific conditions and needs of persons with disabilities, but rather the convention would guarantee that persons with disabilities could exercise their general human rights; (3) hybrid model, combining non-discrimination and equality with separate statements of existing rights guarantees tailored to the specific situations of persons with disabilities. Some options were discussed as to the substantive and procedural aspects of these three models, which could provide a basis for a discussion of the new convention and its monitoring procedures.

It was reiterated by all the panellists that the indivisibility, interdependence and interrelatedness of all human rights — civil, political, economic, social and cultural — are of equal importance and equal weight in both jurisprudence and practice. Elaboration of the convention and its monitoring system would benefit from the experience and the on-going jurisprudential discourse on this issue in the Committee on Economic, Social and Cultural Rights.

A number of aspects of the existing monitoring mechanisms were discussed, including useful examples from the experience of the Convention on the Rights of the Child for monitoring a convention on the rights of persons with disabilities. That experience was marked especially by the active role of non-governmental organizations involved in monitoring the Convention. On the other hand, the individual petition mechanisms instituted by other conventions, such as those on racial discrimination and on the elimination of discrimination against women, would be instrumental in addressing specific rights violations. The panel recommended the establishment of an expert body with an active role played by groups of persons with disabilities. The mechanisms would deal with a wide range of actions that protect and promote the rights of persons with disabilities, from individual

complaints to the means to strengthen monitoring, as well as providing technical support to States.

Mr. Byrnes identified the following issues concerning a new convention: (1) a new thematic convention on disability rights; (2) how the convention might be conceived against the background of existing human rights and disability-specific instruments; (3) structure and substantive issues specific to disability and; (4) the options for a monitoring and enforcement mechanism.

Mr. Byrnes considered that a convention on the rights of persons with disabilities would be necessary in order to focus on disability, as the existing human rights bodies already had a number of pressing priorities. The presentation also emphasized that the most effective way of addressing a particular human rights issue, such as disability rights, would be a multi-pronged approach, including a new convention, the mainstreaming of disability into the general human rights system, and continuing work with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the World Programme of Action concerning Disabled Persons, which would create a multiplier effect in all aspects of development policy and programmes, as well as promoting jurisprudence in disability rights.

Ms. Deepika Udagama examined the need to have a new convention on the rights of persons with disabilities and compared the Conventions on the rights of the child and on the elimination of discrimination against women as possible models, including a hybrid form that would combine a non-discrimination principle with a holistic approach. The presentation discussed the importance of the hybrid model as disability-specific needs should be addressed in the convention. She also stressed the need for a multidisciplinary approach in elaborating the convention, and in the monitoring system.

Ms. Velina Todorova also compared different models for a convention — holistic, non-discrimination and hybrid — focusing on the Convention on the Rights of the Child, including the specific elements that can be drawn from the monitoring system of that Convention.

Mr. Muna Ndulo examined the particulars of the situation of developing countries for the promotion of the rights of persons with disabilities and the specific needs of the societies in which persons with disabilities live in the context of varying developmental stages. The presentation focused on the need for a holistic model convention and addressed the importance of including all stakeholders in the process of elaboration of the convention, as well as in the monitoring, thereby obtaining a broad support basis.

Panel II: The principle of non-discrimination and equality from a disability perspective — critical issues concerning special measures and disability

Panel II had four presenters: Ambassador Leandro Despouy (Argentina), Dr. Rangita de Silva (Sri Lanka), Ms. Charlotte McClain (South Africa) and Ms. Cynthia Waddell (USA). The panel was moderated by Ambassador Despouy.

The panel discussed from a disability perspective how the rights of persons with disabilities are protected and promoted based on the principle of non-discrimination and equality within the existing human rights framework: the discussion included an analysis of issues of critical importance to the equalization of

opportunities for persons with disabilities and identified areas where general human rights protection has not been effective in ensuring the rights of persons with disabilities. The panel further explored implications of this analysis for elaborating a convention on the rights of persons with disabilities. In addition the panel addressed effective measures against disability-based discrimination. An emphasis was accorded to anti-discrimination measures, reasonable accommodation and other alternative responses.

Ms. Cynthia Waddell addressed accessibility as a human rights issue and discussed how ensuring accessibility removes barriers and promotes equality through full participation and inclusion of persons with disabilities in society. Ms. Waddell discussed the rights of access to physical environments and to information and communication and how these rights can be implemented through universal design standards and effective communication. The presentation further elaborated how accessibility promotes non-discrimination and counters segregation, economic marginalization, and other human rights violations.

Ms. Charlotte McClain discussed the application of the principle of non-discrimination and equality to the situation of persons with disabilities in the context of South Africa, from its progressive constitution and legislation for promoting the rights of persons with disabilities to the role of national human rights institutions in monitoring of implementation of the programme of action. A number of stakeholders had contributed to jurisprudential development, which covered a wide range of economic, social and cultural rights. A number of state agencies and civil society played a major role. Her presentation concluded that there is a need for stipulating a comprehensive set of human rights of persons with disabilities in the new convention.

Dr. Rangita de Silva focused on how gender perspectives and gender analysis could inform the principles of non-discrimination and equality and the implications of this analysis for elaborating a convention on the rights of persons with disabilities. The presentation described how women fall into multiple categories of race, religion, class, ethnicity, sexual preference and handicapping conditions. A disproportionate number of women who are victims of sexual abuse are women with disabilities: rape and sexual assault and harassment of women with disabilities are often rendered invisible. Dr. de Silva also discussed transformative possibilities of gender analysis and its application in the context of disability, and she emphasized the importance of this process, which recognizes and capitalizes on the opportunities for capacity-building, education and awareness raising on disability as a human rights issue, and pointed out the danger in rushing this process, as it would result in underutilization of treaty mechanisms in future.

Ambassador Despouy elaborated on the historical evolution of human rights and disability, with reference to the benchmark study he conducted on this issue in the late 1980s as Special Rapporteur on Disability and Human Rights of the Commission on Human Rights. He discussed disability in a wide range of policy and legal contexts, including the political and humanitarian agenda, demonstrating the need to discuss the rights of persons with disabilities based on the indivisibility of both civil and political rights, as well as economic, social and cultural rights.

In conclusion, Ambassador Despouy pointed out that, in the interest of the progressive development of international norms in disability, there should be a binding legal instrument at this time. The discussion also referred to the ongoing

work in streamlining existing human rights treaty bodies so as to harmonize the United Nations human rights treaty mechanism and the importance of the twin-track approach: mainstreaming disability within the existing human rights system and elaborating a convention on the rights of persons with disabilities.

Panel III: New and emerging approaches to definitions of disability — conceptual frameworks, varying contexts of definition and implications for promotion of the rights of persons with disabilities

Panel III had three presenters: Dr. Scott Campbell Brown (USA), Dr. Catherine Barral (France) and Dr. Kofi Marfo (Ghana). The panel discussion was moderated by Dr. Brown.

The panel explored critical issues and concepts relating to disability, which would have a major impact on issues concerning the rights of persons with disabilities in national and international policy and legislative contexts. The purpose of the panel was not to derive an international definition for disability that would be employed as a mechanism for determining who is covered under a disability/human rights convention. Rather, the purpose of examining these issues was to aid in the systematic determination of the convention's scope; such concepts need to be studied, because the viewpoint of what disability is may determine the actual rights that are conferred.

In relation to a new convention and the need for a definition of disability, the panellists were of the view that the discussion concerning contextual variables was essential and the situation of disability should be taken into account. The panellists had a special focus on accessibility, which they deemed more important than the definition of disability. A distinction was made between experiences of impairment and experiences of disability.

Dr. Brown suggested elements for a human-rights-based disability taxonomy and recommended strategies for inclusion of these elements in the context of elaboration of a new convention. The presentation addressed the question of essential principles deriving from social pathology models of disability that might be considered by the Ad Hoc Committee for its future work. The need for a taxonomic approach to human rights and disability were discussed in relation to its potential use in the process of considering a convention. Potential elements to be considered in human rights/disability taxonomy were also outlined.

Dr. Catherine Barral addressed human rights issues focusing on the rights to which all people, regardless of disability status, are entitled. Analyses of how societies marginalize people with disabilities, such as the typology proposed by Jean-Francois Ravaud and Henri-Jacques Stiker for different forms of social exclusion of persons with disabilities, were presented. Concepts related to citizen rights in a civil society were also discussed.

Dr. Kofi Marfo addressed the issues of framing disability in conceptions and definitions of disability. The presentation explained the transition from the old classification system (disorder-impairment-handicap) to that of more enlarged concepts, moving from biological to societal concepts, which identified the need for local concepts, concepts of personhood in varying socio-cultural contexts. It also addressed conceptions of difference at cultural (universalism and evolutionism as transport models as opposed to relativism) and psychological (moving from deficit/negative model to individual model with a view to contextual factors) levels.